

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-CV-0454

CHARLES WILSON,)
Plaintiff,)
v.) ORDER
CANDY B. RAY, and)
HORACE MANN PROPERTY &)
CASUALTY INSURANCE COMPANY,)
Defendants)

This matter is again before the court on Plaintiff's Motion to Remand [DE-5].

The Defendants have responded [DE-7] in consent to Plaintiff's motion. As the basis for their consent to the remand of this case, Defendants explain that "Plaintiff's counsel has stipulated that Plaintiff is seeking to recover:

- (a) compensatory damages (including any punitive or treble damages, taxable costs, recoverable interest, or other items of recovery whatsoever but not including attorneys' fees) having a present value of not more than \$55,000; and
- (b) attorneys' fees having a present value of not more than \$20,000."

[DE-7] Resp. Pl. Mot. Remand, ¶ 4(a) & 4(b).

Accordingly, the Defendants state that "based on the stipulation of counsel referenced above, Defendant Horace Mann consents to the remand of this action" because the \$75,000 amount in controversy requirement for diversity jurisdiction is not satisfied. *Id.* at p. 2; 28 U.S.C. 1332(a).

On February 20, 2009, this court entered an Order [DE-17], holding the Motion to Remand in abeyance until a stipulation signed by the parties limiting damages to \$75,000 had been filed with the court. On February 26, 2009, the Defendant filed a Response to the court's February 20, 2009, Order, and included therein a stipulation signed by the parties conforming to the court's request. [DE-19], Ex. A. Accordingly, because the parties have stipulated to this court that the amount in controversy in this case does not exceed \$75,000, and because there is no other basis for federal jurisdiction apparent from the record now before the court, it is proper that this case be remanded to state court for further proceedings as this court lacks jurisdiction over the matter.

For the forgoing reasons, Plaintiff's Motion to Remand [DE-5] hereby is ALLOWED. Accordingly, this case is REMANDED to the Johnston County Superior Court, Civil Division. The Clerk of Court is DIRECTED to serve a copy of this order on the Clerk of Johnston County Superior Court. All other pending motions filed in this court in this case are DISMISSED as MOOT.

So ORDERED.

This the 27th day of February, 2009.



JAMES C. FOX
Senior United States District Judge